(iii) Lay down that a fair number of candidates in the existing lists who still remain unemployed now, be allotted to the Judicial Department instead of conducting a separate examination for selection of candidates for that Department.

(iv) Issue instructions to the Board of Revenue and to the Heads of Departments in South Kanara to the effect that no more ex-Settlement or other exempted candidates be allotted to this District which is already overburdened with such candidates.

(v) Promulgate proceedings preventing the transfer of clerks from other Districts for permanent vacancies occurring in the various departments of this District.

(vi) Re-introduce the system of allotting candidates permanently to each department (viz., group system) as was in force before the year 1934.

(vii) Amend the Madras Special Pay and Allowance Rules so as to extend the grant of T. A. to acting clerks who sustain break in their services for want of vacancies and are subsequently re-appointed, for the journey performed by them to join that new post.

For which act of Kindness and Generosity, Your Memorialist

begs to remain,

Your most obedient and humble servant,

L. Gopalakrishnaiah.

Through

The Treasury Deputy Collector
Mangalore.

Recd for the Collector
(8 hrs)
Tr. Dy. Coll.

Indian Catholic Press, Mangalore

1937

Department of Revenue

OFFICE Bangalore

STATION Madras

Misc No. 1661

B.1529/37

Dated 26-5-37

DESPATCHED
-3 JUN 1937

RP

Pages in the file 9/Y
up 4

(SUBJECT.)

Encroachment - land - (S. Kanara) - Mangalore Taluk viz - S.No. 185/10 - Eviction - Cancellation Orders passed.

Ref.A1-5336/36. South Kanara Collector's Office,

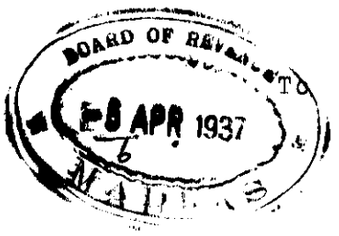
Mangalore, 25th March 1937.

RP 109
B 529

From

T. A. Varghese, Esq., I.C.S.,

Collector of South Kanara.



The Secretary to the

Board of Revenue,

M a d r a s.

Sir,

Encroachment - Land - Mangalore Taluk - Ullal village - S.No.185/10 - Eviction - cancellation - Recommended.

******

Plot S.No.185/10 measuring 85 cents of Ullal village, Mangalore Taluk forms part of the unsurveyed seashore. The adjoining wargdars having encroached upon a good portion of this unsurveyed seashore land by planting casuarina, the village officers reported about them in a B. Memo. Just at that time the plot S.No.185/10 which was then vacant was applied for on darkhast by a fisherman, one Baira Marakala. When the Revenue Inspector went for inspection he found that the plot S.No.185/10 had also been planted with casuarina plants by one Mammikunhi Beari the owner of the adjoining hosagame lands ---- S.Nos.116/4 and 152/6 ~~and~~ also enclosed. He therefore ------- recommended the eviction of the encroacher from the plot in view to assign it to the applicant Baira Marakala who as a fisherman wanted it for fish drying purposes. As recommended by the --- Revenue Inspector the Tahsildar took steps under the Land ----- Encroachment Act in respect of the plot in dispute and some --- other encroachments which were reported by the Revenue -------- Inspector to be within 5 chains of the High water mark of the sea and the Revenue Divisional officer also passed the eviction order under section 6 of the Land Encroachment Act. There --- were appeals against the eviction order which the Collector

dismissed as the plots were then reported to be within 5 chains of the High water mark of the sea. As regards the plot in dispute, the Collector directed that the encroacher should be evicted as he occupied it forcibly when the application of Baira Marakala for its assignment was pending. Please see Huzur Proceedings D.Dis.5257/33, dated 9.1.1934. Seeing that no orders were received on his darkhast application, Baira Marakala approached the Collector with a fresh petition praying for orders for the assignment of the plot to him. The Collector however passed orders on it, D.Dis.2097/34, dated 4.5.1934 rejecting the petition on the ground that the plot was required for the use of the fishermen. The Collector also directed that the encroacher Mammikunhi Beari should be evicted from the plot and the plot reserved for the use of the fishermen for keeping their boats &c.

Mammikunhi Beari and the other encroachers then approached the Collector with petitions contending that the plots encroached upon by them were beyond 5 chains from the high water mark of the sea and that their assignment was unobjectionable. As the ---- Tahsildar who was asked to report supported the encroachers' contention, the Collector passed orders D.Dis.1850/34, dated 9.7.1934 that all plots might be assigned to the persons best entitled to them and in his proceedings D.Dis.4972/34, dated 25.10.1934 sanctioning the transfer of the plots to ayan ------ directed that the plots containing no encroachments should be sold by auction.

2. As the Collector had once ordered the eviction of the encroacher from the plot S.No.185/10, the Tahsildar took steps under the Land Encroachment Act in respect of it and the Revenue Divisional officer passed the eviction order which the Collector upheld in appeal in his Proceedings, D.Dis.2541/36, dated ----- 15.7.1936. The encroacher's revision petition to the Board against the eviction was also dismissed in B.P.Rout.No.4201, dated 31.8.1936.

3. The encroacher has now again approached me with a

(X) petition praying that the plot may atleast be leased out to him for six years within which he hopes to cut down the casuarina trees. Seeing that the Collector sanctioned the assignment of all the plots in his Proceedings, D.Dis.1850/34, dated 9.7.1934, I do not know why the eviction proceedings were continued in the case of the petitioner's encroachment alone. It seems to me inequitable that this distinction should have been made and I am sure that the Board would not have passed the order of ---- dismissal if the full facts as stated above were before it. I recommend therefore that the Board may be pleased to order the cancellation of the eviction order in view to direct the ------ assignment of the plot on darkhast to the encroacher.

4. I enclose the marginally noted connected records for reference.

1. Petition, dated 9.10.36 of the petitioner. (X)
2. Huzur file D.Dis.2541/36, dated 15.7.36. (H)
3. " D.Dis.4972/34, " 25.10.34. (I)
4. " D.Dis.2097/34, " 4. 5.34. (P)
5. " D.Dis.1850/34, " 9. 7.34. (L)
6. " D.Dis.5257/33, " 9. 1.34. (D)
7. Mangalore Taluk E.C.14/45. (E)
8. " D.R.406/44. (J)

1.4.37

For Collector.

1.4.37

J. F. H

DRAFT FOR APPROVAL. C.F. 16.

	Date.	Initials.
When received for fair copying ..		
When copied	28/5	
When examined.		
When signed		
When despatched.		

SUBJECT :— Encroachment - land - (S. Kanara) - Mangalore N - Ullal vge - S. no. 185/10 - Eviction - cancellation - Order/proms

(F) READ AGAIN B.P. Nr. no 4201, dated 31 8 1936 R

" " " 19

READ *ALSO* :— No. B.15 29 From the Coll. of S. Kanara Dy No A1-5536/36 dated 25 3 1937

" " 19

" " 19

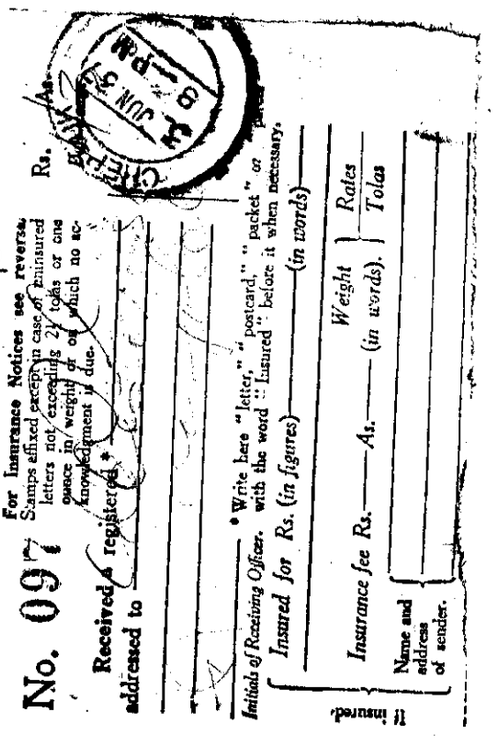
Order / Resolution Ms. / ~~Rout.~~ No. 1661, dated 26 5 1937

Pl-4

S. No. 185/10 of Ullal village, Mangalore taluk, S. Kanara district, originally formed part of the unsurveyed seashore in the village. Baira Marakala, a fisherman, applied for it on darkhast for the purposes of drying fish. When the Rev Inspector inspected it, he found it planted with cashanna plants by one Manimukunda Beari, the owner of the adjoining hosagenne lands, S. Nos 116/4 and 152/6. This and similar encroachments made by the other adjoining wargdars on the seashore were brought to B. memo. As the Rev Inspector reported that the en-

Pl-4

Rs. 1651


No. 097
Received registered addressed to
For Insurance Notices see reverse.
Stamps affixed except in case of insured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due.
Rs. As.
Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.
Insured for Rs. (in figures) (in words)
Initials of Receiving Officer.
Insurance fee Rs. As. (in words).
Weight Rates Tolas
Name and address of sender.
If insured.

encroachment were within five chains of the high water mark of the sea, the R.D.O. ordered their eviction under sec 6 of the Madras Land Encroachment Act, 1905. The appeals preferred by the encroachers against the R.D.O's order of eviction were dismissed by the Collr in 1934. Baira Marakala put in a fresh petition to the Collr praying for the assignment of the plot, S. No. 185/10. But the Collr rejected the petition in his D.Dis no 2097/34 g 4-5-34 and directed that the encroacher, Mammikunhi Beari, should be evicted & that the land should be reserved for the use of the fishermen for keeping their boats etc

2. Subsequently, the encroachment of the plot in question and the other encroachers of the seashore put in petitions to the Collr representing that the plots encroached upon by them were beyond five chains from the high water mark of the sea and that their assignment was unobjectionable. As the Taluk supported

their contentions, the Collr in his order dt 1850/84 of 9-7-84 that all the plots might be assigned to the persons best entitled to them. He also sanctioned the transfer of the plots to Jayan in his DDis 6211/84 of 25-10-84.

p4 of (L)

pp 5-7 of (I)

3. As the Collr had however ordered the eviction of the encroachers from S.No. 185/4 the plot in question in his DDis 2057/84 of 4-5-84, the Talk took steps under the L.E. Act in respect of that plot alone and passed the eviction order, which the Collr also upheld it on appeal in his DDis 2541/86 of 15-7-86. The revision petition put in by the encroachers to the Board was also dismissed by it in its proc Rt. no 4201 of 31-8-86.

(D)

p21 of (F)

pp 2-3 of

4. The Collr now reports that the instance of the encroachers of the plot in question that it is inequitable to evict the encroachers alone, while the other plots encroached upon by them in the same locality have been ordered to be assigned to the encroachers concerned. He recommends that the eviction orders passed in respect of the plot may be cancelled with a view to assign it to the

encroachers on dartheast.

5. The Board observes that the eviction order and notice under sec 6 of the L.E. Act were originally issued in this case in July 1933. When it rejected the encroachers revision petition in its Proc read above, it was under the impression that the land was poramboke that the occupation was objectionable. Now that the land is assessed waste by virtue of its transfer in 1934 that its occupation by the encroachers is reported to be unobjectionable, the Board consider that there is nothing which compels the Revenue officers to carry out an eviction simply because an evic'n order was passed ~~it was ordered~~ 2½ years ago. It is therefore open to the Collr to ignore the order of eviction and dispose of the land in accordance with the rules in B.S.O. no. 15. He is requested to take action accordingly

p2 ante

p15 of (D)

p21 of (F)

p3 ante

2/115

To the Collr of S. Kanara with records as per list returned (p3 of the copies)

M1.
A.J.S.
A.S.(Apl)

Not file.

Encroachment – Land – (S. Kanara) – Mangalore Taluk – Ullal vge – S.no. 185/10 – Eviction – Cancellation.

B 1529/37.

Revised note submtd.]
4/5.

To Asst Secy.

The Collector's letter at pp 1 to 3 c/f is submitted for orders.

The revision petition presented to the Board by the encroacher against the Coll's order was dismissed in B.P. Rt. no. 4201 of 31-8-36 without calling for the connected records from the Coll. The full facts of the case (as stated by the Coll now) were not therefore before the Board when the orders in the above B.P. were passed. As opined by the Coll, it is inequitable to evict the encroachment made by one individual, while the portions in the same area encroached upon by the other persons were ordered to be assigned to those persons. It is reported that all the plots encroached upon are beyond 5 chains from the high water mark of the sea so that their assignment is unobjectionable. In the circumstances it appears that the Board may agree with the Coll that the eviction order in this case may be cancelled.

It is submitted in this connection that this case is covered by proviso (1+2) to rule under B.S.O. no. 172-7, as the orders passed by the Board were those (& also under a statute) passed by it under Chapter I of the B.S.O.] The Board has already passed orders in the matter in its

It is proviso (2)
WS
12.5.37

prop at (E). It cannot review its order, as there is no provision in Act III of 1914 to that effect (Vide ~~provisions~~ sections 72-73) & the Court, it, have no jurisdiction in the matter under the Act as (Vide sec 10(1) of the Act) amended by Act V of 1935. In the circumstances it is submitted that neither the Board nor the Court can do anything in the matter as it stands at present. It is for orders whether the Govt may be informed that there is no provision in the Act for the Board to review its own order or whether the Govt may be moved to the procedure to be adopted in this case.

For orders.

KN
4/5
SIG
1935.

The Provincial Govt: have full powers to dispose of the land. The facts may be reported to the Govt. with the recommendation that they may cancel the order of eviction and direct the assignment to the encroachers

AJS

WS
17.5.35

The eviction order & notice under section 6 were issued sometime before Sept- 1933. & when the Board rejected the petition in (F) it was under the impression that the land was procurable p. 23 of (A)

+ That the occupation was objectionable
But subsequent to 1933 the land was
transferred to assessee works (25.10.34)
+ the Collector reports that the occupation
of the land is not objectionable. The
words used in section 6 of the L.E. Act
are "may be summarily evicted
any crop or other produce raised on the land
shall be liable to forfeiture There
is nothing which compels revenue officers
to carry out an eviction simply because
an eviction order was passed 3½ years ago
The matter which was before the Board
was an encroachment matter. Now the
question is one of assignment + when
assignment is made the Collector is bound
to respect Swaryam claims. It is open
to the Collector to ignore the order of
eviction + dispose of the land in
accordance with the rules in B.S.O. 15.
He may be informed accordingly.

There is no need to go to the Govt
at all (the Govt have no jurisdiction
under the L.E. Act)

18.5.37

Approved
(15.5.37) M.I.

H.S. 7 of (I)

See Act V of 36 (M)

IA
20/5

A.S.(KN)